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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 09/050,366      | 03/31/98    | JOHANSSON            | 0151/00211          |

HM12/0205

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| EXAMINER  |
|-----------|
| MOEZIE, F |

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1654     | 6            |

DATE MAILED: 02/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/050,366

Applicant(s)  
Johannsson et al

Examiner  
Fateme Moezie

Group Art Unit  
1654



☒ Responsive to communication(s) filed on Mar 31, 1998

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 30 days month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-18 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

F.M.

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1654

## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 4, 5, 12, 13, drawn to insulin related medicaments and treatment, classified in class 514, subclass 4, for example.
  - II. Claims 3, 6, 7, 8, 11, 14-16, drawn to obesity or body fat treatment, classified in class 514, subclass 12, for example.
  - III. Claims 9, 17, drawn to treatment of serum concentration of triglyceride, classified in class 436, subclass 21, for example.
  - IV. Claims 10, 18, drawn to decreasing diastolic blood pressure, classified in class 128, subclass 672, for example.

Claims 1 or 2, link(s) inventions II or III and IV and will be examined with the respective elected invention. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), 1 and 2. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting

Serial Number: 09/050,366

Art Unit: 1654

rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The inventions are distinct, each from the other because:

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II or III and IV are distinct one from the other. Inventions are distinct if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions have different effects and different functions. In the instant application invention I is also distinct from invention II and invention III is distinct from invention IV for the reasons cited earlier.

3. Because these inventions are distinct for the reasons given above and the search required for Group I or II is not required for Group III or IV, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

Serial Number: 09/050,366

Art Unit: 1654

amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication should be directed to Examiner Moezie at telephone number (703) 305-4508.

*F. T. Moezie*  
F. T. MOEZIE, Ph.D.  
PRIMARY EXAMINER  
ART UNIT ~~186~~  
1654